

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Charlottesville Division**

ELIZABETH SINES, SETH WISPELWEY,
MARISSA BLAIR, APRIL MUNIZ,
HANNAH PEARCE, MARCUS MARTIN,
NATALIE ROMERO, CHELSEA
ALVARADO, JOHN DOE, and THOMAS
BAKER

Plaintiffs,

v.

JASON KESSLER, RICHARD SPENCER,
CHRISTOPHER CANTWELL, JAMES
ALEX FIELDS, JR., VANGUARD
AMERICA, ANDREW ANGLIN,
MOONBASE HOLDINGS, LLC, ROBERT
“AZZMADOR” RAY, NATHAN DAMIGO,
ELLIOT KLINE a/k/a ELI MOSLEY,
IDENTITY EVROPA, MATTHEW
HEIMBACH, MATTHEW PARROTT a/k/a
DAVID MATTHEW PARROTT,
TRADITIONALIST WORKER PARTY,
MICHAEL HILL, MICHAEL TUBBS,
LEAGUE OF THE SOUTH, JEFF SCHOEPP,
NATIONAL SOCIALIST MOVEMENT,
NATIONALIST FRONT, AUGUSTUS SOL
INVICTUS, FRATERNAL ORDER OF THE
ALT-KNIGHTS, MICHAEL “ENOCH”
PEINOVICH, LOYAL WHITE KNIGHTS OF
THE KU KLUX KLAN, and EAST COAST
KNIGHTS OF THE KU KLUX KLAN a/k/a
EAST COAST KNIGHTS OF THE TRUE
INVISIBLE EMPIRE,

Civil Action No. 3:17-cv-00072-NKM

Defendants.

JOINT PROPOSED DISCOVERY SCHEDULE

Pursuant to the Court's October 28, 2019 order directing the parties to file a joint proposed schedule for completing discovery (ECF No. 582) and the Court's November 12, 2019 order providing the parties with an extension of time to file a proposed schedule until November 15, 2019 (ECF No. 586), counsel for Plaintiffs, counsel for Defendants, and pro se Defendants conferred to prepare the following proposed schedule.¹ The parties agree on all but two of the proposed deadlines (Numbers 1 and 2). For those two items where there is disagreement, the parties' respective positions are detailed below. There are no objections to the dates specified in Numbers 3 through 22, which should not be impacted by however Your Honor rules with respect to Numbers 1 and 2.

PROPOSED SCHEDULE

1. Plaintiffs propose that the Defendants be required to produce documents to the Plaintiffs within **fourteen (14)** days of receiving the documents from the third-party vendor. Defendants object to any timeline within which they must produce documents once received from the vendor, other than the ultimate deadline for producing documents, discussed below in Number 2.
 - a. Plaintiffs' position: Plaintiffs believe that in addition to a final deadline by which Defendants must produce documents, there must be some limitation on the amount of time Defendants have to review and produce documents once received from the vendor. Such a deadline protects Plaintiffs from any additional undue delay in the review and production process once documents are produced to Defendants by the vendor. In addition, such a deadline allows Defendants a reasonable amount of time to review and produce documents once they are received by the vendor. This deadline would eliminate what has been a great source of significant delays thus far – Defendants' failure to review and produce documents in a timely fashion – and would provide badly-needed accountability to this process. Defendants seek an unlimited amount of time to review and produce documents once received, as well as an extended deadline to produce documents (discussed in Number 2), which provides virtually no incentives for Defendants to produce documents more quickly.

¹ James Kolenich generally communicated with Plaintiffs on behalf of all defense counsel. Plaintiffs attempted to contact Mr. ReBrook, counsel for Defendants Schoep, NSM and NF, but received no response, other than his agreement to the trial date of October 26, 2020. Defendants Kline, Heimbach, Cantwell, Vanguard America and Ray did not respond with any specific objections to specific dates, although Defendant Cantwell stated he is "not in a position to agree to any such schedule," and Defendant Heimbach stated that he does not "believe the proposed timeline is appropriate given we are still waiting on the third party vendor to fulfill their obligations."

- b. Defendants' position: The represented Defendants, through their counsel, object and state they “do[] not have the resources available to retain additional counsel or law clerks to meet such a deadline,” that Defendants’ counsel “do[] not have the time to meet such a deadline,” and that “because the [scheduling] order will contain a firm deadline for the production of documents/ESI, there is no reason to add another layer of deadlines with respect to document/ESI production.” Defendants added that if the Court imposes Plaintiffs’ proposed deadline, the Court “should provide that Defendants’ obligation to meet any firm document/ESI deadline is conditioned on [the third-party vendor] having timely provided to Defendants for their review whatever ESI [the vendor] collects.”
2. Deadline to produce all discoverable material to opposing counsel, including material in accordance with the Stipulation and Order for the Imaging, Preservation, and Production of Documents, ECF No 383.
- a. Plaintiffs' position: Plaintiffs propose **January 15, 2020**. This proposed deadline would give Defendants two more months to produce documents that Plaintiffs requested two years ago, which is ample time to complete their already substantially delayed productions. Additionally, given that Plaintiffs have provided Defendants with a third-party vendor to image the Defendants’ accounts and devices, there is simply no need for an additional three and a half months to produce their remaining documents to Plaintiffs, which would only once again serve to squeeze the time Plaintiffs have to review and incorporate the documents for depositions.
 - b. Defendants' position: Defendants propose **March 1, 2020**. The represented Defendants, through their counsel, object to the Plaintiffs’ proposed deadline and state that they “do[] not have the resources available to retain additional counsel or law clerks to enable [them] to meet such a deadline,” that “such a deadline would interfere with the Christmas and New Year’s holidays,” and that “such a deadline would interfere with and materially affect [Mr. DiNucci’s] preparation for the following: (a) a 2-day bench trial in Fairfax County Circuit on February 10 and 11, 2020; (b) a 1/2 day bench trial in Fairfax County General District Court on February 12, 2020; and (3) a 6-day jury trial in Loudoun County Circuit Court on February 17, 18, 19, 20, 21, 24 and 25, 2020.” Additionally, the represented Defendants state that “[i]n no event would Plaintiffs be prejudiced by Defendants having additional time -- through March 1, 2020 -- to produce documents/ESI, particularly given the enormous resources Plaintiffs have (including a \$10,000.000 fund for legal fees and the very large number of attorneys who have entered appearances in this case).”
3. Submission of opening expert reports by **June 29, 2020**.
4. Submission of rebuttal expert reports by **July 13, 2020**.
5. Party/lay-witness depositions to be completed by **July 17, 2020**.

6. All interrogatories must be served on or before **July 21, 2020**.
7. Requests for admission must be served on or before **July 21, 2020**.
8. Depositions of experts to be completed by **July 24, 2020**.
9. All third-party fact discovery to be completed by **July 24, 2020**.
10. Dispositive motions/motions to exclude opposing party's proposed expert's testimony to be filed by **August 7, 2020**.
11. Oppositions to dispositive motions/motions to exclude proposed expert testimony to be filed by **August 28, 2020**.
12. Replies to dispositive motions/motions to exclude proposed expert testimony to be filed by **September 8, 2020**.
13. Hearing on dispositive motions to be held on **September 11, 2020**.
14. Parties to exchange witness lists by **September 28, 2020**.
15. Motions in limine to be filed by **October 5, 2020**.
16. Deposition designations to be filed by **October 5, 2020**.
17. Counter-designations and objections to deposition designations to be filed by **October 12, 2020**.
18. Proposed jury instructions and special interrogatories to be filed by **October 12, 2020**.
19. Deadline for objections to counter-designations to be filed by **October 16, 2020**.
20. Oppositions to motions in limine to be filed by **October 16, 2020**.
21. Integrated Pretrial Order to be filed by **October 19, 2020**.
22. Trial to begin on **October 26, 2020**.

Dated: November 15, 2019

Respectfully submitted,

/s/
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CERTIFICATE OF SERVICE

I hereby certify that on November 15, 2019, I filed the foregoing with the Clerk of Court through the CM/ECF system, which will send a notice of electronic filing to:

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I further hereby certify that on November 15, 2019, I also served the following non-ECF participants, via electronic mail, as follows:

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